IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

Crl.MC.No. 2195 of 2007()

CMP.8216/2007 of CHIEF JUDICIAL MAGISTRATE COURT, MANJERI

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PETITIONER: PETITIONER

MAYIL SWAMY, AGED 40 YEARS,
S/O RAMA SWAMY, JITHA NIVAS,
PERINTHALMANNA.

BY ADV. SRI.DINESH MATHEW J.MURICKEN
SRI.P.V.BALAKRISHNAN
SMT.N.AYSWARYA

RESPONDENTS: RESPONDENTS

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1. T.K.ABDUL JAMAL, S/O MOIDU,
THADATHIKANDI HOUSE, PUTHANANGADI P.O.,

2. STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY P.P. SRI.M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. NO.2195 OF 2007

Dated this the 9th day of July, 2007

ORDER

The petitioner is the complainant in a prosecution under Sec.138 of the Negotiable Instruments Act. A complaint was filed before the learned Chief Judicial Magistrate, Manjeri. The complaint was entertained. Cognizance was taken. Thereafter, invoking the powers under Sec.410 of the Cr.P.C., the learned C.J.M. made over the case to the learned Judicial Magistrate of the First Class-II, Manjeri. The petitioner raised an objection before the learned C.J.M., Manjeri, on the ground that in the light of the decision in **Ahammedkutty Haji v. State of Kerala** (2007 (1) KLT 68), the learned Judicial Magistrate of the First Class-II, Manjeri, has no jurisdiction to deal with the complaint. The learned C.J.M., by the impugned order, held that the said challenge against the jurisdiction is

without any substance and proceeded to turn down the challenge against the direction to make over the case to the learned Judicial Magistrate of the First Class-II, Manjeri.

2. The petitioner claims to be aggrieved by the impugned order. The petitioner prays that the case may be directed to be retained before the learned C.J.M., Manjeri. The learned counsel for the petitioner, relying on the decision in **Soman Achari v. Sabu Jacob (**2006 (4) KLT 604), attempted to build up an argument that the learned Judicial Magistrate of the First Class-II, Manjeri, has no jurisdiction to try the case. The learned counsel for the petitioner, relying on **Soman Achari v. Sabu Jacob (**2006 (4) KLT 604), contends that the jurisdiction to entertain the complaint is different from the jurisdiction to try a case and, in these circumstances, the Judicial Magistrate of the First Class-II, Manjeri, though he may have jurisdiction to entertain complaint, cannot, in the light of the decision in **Ahammedkutty Haji v. State of Kerala** (2007 (1) KLT 68), be held to have jurisdiction to try the complaint.

3. I find absolutely no merit in the contention. The decision in **Soman Achari v. Sabu Jacob (**2006 (4) KLT 604) does not at all deal with the jurisdiction of a Chief Judicial Magistrate under Sec.410 of the Cr.P.C. to make over the case and the jurisdiction of such court to which case has been made over to try such case. Acceptance of the argument of the learned counsel for the petitioner would knock the bottom out of the provisions of Sec.410 of the Cr.P.C. and it will have to be held that unless the court to which the cases are made over under Sec.410 of the Cr.P.C. does also have territorial jurisdiction, such making over cannot be made. That obviously is not the law. Under Sec.410 of the Cr.P.C., the C.J.M. has got the power to regulate the work within his District and make over cases to appropriate courts in his administrative discretion. That jurisdiction does not have anything to do with the territorial jurisdiction of the court to which the case is made over to try the case. I am unable to see anything in **Soman Achari v. Sabu Jacob (**2006 (4) KLT 604) which would detract against the

jurisdiction of the learned C.J.M. under Sec.410 of the Cr.P.C. to make over the case to a court within his jurisdiction. The challenge raised against the impugned order, a copy of which is produced as Annexure-3, is found to be without any merit. The same is turned down.

4. This Crl.M.C. is accordingly dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge